



JAMES E. JOHNSON
Corporation Counsel

VIA E.C.F.

Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

**THE CITY OF NEW YORK
LAW DEPARTMENT**
100 CHURCH STREET
NEW YORK, NY 10007

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REQUEST TO FILE UNDER SEAL

April 8, 2020

Application GRANTED. The April 8, 2020, status letter at Dkt. No. 67 shall be filed under seal. Only Christopher Hiram Cano, Nicolette Pellegrino, the City of New York, New York City Health and Hospitals Corporation, Correctional Officers Chisolm, Santiago, Murray, and Captains Robinson and Charles shall have access to the letter at Dkt. No. 67. Defendants are directed to mail a copy of this order to Pro Se Plaintiff and to file proof of service by April 13, 2020. SO ORDERED.

Dated: April 9, 2020
New York, New York

Re: Christopher Hiram Cano v. City of New York, et al.,
19 Civ. 1640 (LGS)

A handwritten signature of Lorna G. Schofield in black ink.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney representing defendants City of New York, New York City Health and Hospitals, New York City Department of Correction (“DOC”) Captains Charles and Robinson, and DOC Officers Chisolm and Santiago (collectively, “Defendants”) in the above-referenced matter.¹ Defendants write to respectfully request that the Defendants be permitted to file their anticipated April 8, 2020 Status Letter under seal because it discusses matters and documents which have been explicitly protected from disclosure by the Court’s September 26, 2019 Stipulation of Confidentiality and Protective Order (hereinafter, “Protective Order”) and also concerns other private and/or confidential matters concerning Plaintiff. (See Dkt. No. 37 at ¶ 2(f).)

By way of background, Plaintiff was scheduled to be deposed by Defendants at the Manhattan Detention Complex on October 31, 2019. However, on October 29, 2019, the Defendants learned that Plaintiff was discharged from DOC custody into the custody of New York State. (See Dkt. Nos. 44, 45.)

¹ Upon information and belief, DOC Officer Murray has not been served with process and, thus, is not yet a party to this action.

Upon information and belief, on November 8, 2019, former Assistant Corporation Counsel Samantha J. Pallini provided the Court, under seal, with an update with respect to the Plaintiff's custody status and relevant criminal case, which are confidential pursuant to HIPAA and the Protective Order. Pursuant to the Protective Order, “[a]ny records unsealed as a result of Plaintiff's properly executed authorization for the unsealing of records pursuant to New York Criminal Procedure Law §§ 160.50 and 160.55, particularly pertaining to Bronx Supreme Court Indictment No. 02396/2016[,]” are to be designated confidential materials and protected from disclosure to third parties, except those persons listed in paragraph 5. (See Dkt. No. 37 at ¶ 2(f).)

Here, the contents of the Defendants' anticipated April 8, 2020 Status Letter concerns the Plaintiff's custody status and certain disclosure on the public docket may violate HIPAA. In addition, the information contained in the Status Letter also directly relates to Plaintiff's Bronx Supreme Court Indictment No. 02396/2016, which includes records that are not publicly available and which are protected by the Protective Order.

Accordingly, the Defendants' anticipated Status Letter contains confidential information, and the Defendants respectfully request the Court's permission to file the Defendants' anticipated April 8, 2020 Status Letter under seal.² The Defendants note that Plaintiff verbally consented to the sealed filing of the Defendants' anticipated April 8, 2020 Status Letter.

The Defendants thank the Court for its consideration.

Respectfully submitted,

/s/ Nicolette Pellegrino
Nicolette Pellegrino
Assistant Corporation Counsel
Special Federal Litigation Division

CC: VIA FIRST CLASS MAIL³
Christopher Hiram Cano
Anna M. Kross Correctional Facility
18-18 Hazen Street
East Elmhurst, New York 11370

² The Defendants will file their anticipated April 8, 2020 Status Letter under seal through the ECF system subsequent to filing their instant request.

³ Because of the current coronavirus pandemic, defense counsel has been directed to work from home, and thus is unable to print and mail a copy of this application to Plaintiff at this time.